

**Executive Summary – Enforcement Matter – Case No. 49683**  
**DESI GROUP, INC. dba Fina Mart**  
**RN102361060**  
**Docket No. 2014-1734-PST-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

PST

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Fina Mart, 1612 East Main Street, Grand Prairie, Dallas County

**Type of Operation:**

Convenience store with retail sales of gasoline

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** March 20, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,015

**Amount Deferred for Expedited Settlement:** \$3,003

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$357

**Total Due to General Revenue:** \$11,655

Payment Plan: 35 payments of \$333 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Unsatisfactory

Site/RN - Unsatisfactory

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** September 18, 2014 through October 31, 2014

**Date(s) of NOE(s):** November 14, 2014

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**DESI GROUP, INC. dba Fina Mart**  
**RN102361060**  
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***Violation Information***

1. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(b)(2) and TEX. HEALTH & SAFETY CODE § 382.085(b)].
2. Failed to ensure that the corrosion protection system is operated and maintained in a manner that will provide continuous protection to all underground metal components of the underground storage tanks (“USTs”) system [30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. HEALTH & SAFETY CODE § 26.3475(d)].
3. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly [30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. HEALTH & SAFETY CODE § 26.3475(d)].
4. Failed to test the cathodic protection system for performance and operability at a frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. HEALTH & SAFETY CODE § 26.3475(d)].
5. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel [30 TEX. ADMIN. CODE § 334.48(c)].
6. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. HEALTH & SAFETY CODE § 26.3475(c)(1)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

The Respondent has implemented the following corrective measures:

- a. By September 23, 2014, began maintaining Stage II records at the Station;
- b. By October 10, 2014, repaired and tested the corrosion protection system;
- c. By October 13, 2014, began conducting bimonthly inspections of the rectifier and other components of the cathodic protection system;
- d. By October 6, 2014, conducted triennial testing of the cathodic protection system with passing results;
- e. By October 20, 2014, began conducting proper inventory control procedures; and

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f. By November 29, 2014, implemented a release detection method for all USTs.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Holly Kneisley, Enforcement Division,  
Enforcement Team 6, MC R-04, (817) 588-5856; Candy Garrett, Enforcement Division,  
MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** Rafiq Merchant, President, DESI GROUP, INC., 2325 Terping Place,  
Plano, Texas 75025

Shiraz Jivani, Authorized Agent, DESI GROUP, INC., 2325 Terping Place, Plano, Texas  
75025

**Respondent's Attorney:** N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

<b>DATES</b>	<b>Assigned</b>	17-Nov-2014	<b>Screening</b>	18-Nov-2014	<b>EPA Due</b>	
	<b>PCW</b>	19-Nov-2014				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	DESI GROUP, INC. dba Fina Mart
<b>Reg. Ent. Ref. No.</b>	RN102361060
<b>Facility/Site Region</b>	4-Dallas/Fort Worth
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	4
<b>Enf./Case ID No.</b>	49683	<b>Order Type</b>	1660
<b>Docket No.</b>	2014-1734-PST-E	<b>Government/Non-Profit</b>	No
<b>Media Program(s)</b>	Petroleum Storage Tank	<b>Enf. Coordinator</b>	Holly Kneisley
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 6
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$12,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **35.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,375**

**Notes** Enhancement for one default order and unsatisfactory performer classification.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **-\$2,561**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts \$724  
Estimated Cost of Compliance \$4,600

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$14,314**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **4.9%** **Adjustment** **\$701**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes** Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.

**Final Penalty Amount** **\$15,015**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$15,015**

**DEFERRAL** **20.0%** Reduction **Adjustment** **-\$3,003**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes** Deferral offered for expedited settlement.

**PAYABLE PENALTY** **\$12,012**

Screening Date 18-Nov-2014

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PCW

Respondent DESI GROUP, INC. dba Fina Mart

Policy Revision 4 (April 2014)

Case ID No. 49683

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102361060

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Holly Kneisley

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one default order and unsatisfactory performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 35%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 35%

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Respondent DESI GROUP, INC. dba Fina Mart

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Case ID No. 49683

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Reg. Ent. Reference No. RN102361060

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Holly Kneisley

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 115.246(b)(2) and Tex. Health &amp; Safety Code § 382.085(b)

Violation Description

Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

	Falsification	Major	Moderate	Minor
		x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

5

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

## Good Faith Efforts to Comply

25.0%

Reduction \$312

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance on September, 23, 2014, prior to the Notice of Enforcement ("NOE") dated November 14, 2014.

Violation Subtotal \$938

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,443

This violation Final Assessed Penalty (adjusted for limits) \$1,443

# Economic Benefit Worksheet

**Respondent** DESI GROUP, INC. dba Fina Mart  
**Case ID No.** 49683  
**Reg. Ent. Reference No.** RN102361060  
**Media** Petroleum Storage Tank  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	18-Sep-2014	23-Sep-2014	0.01	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to maintain Stage II records at the Facility. The date required is the investigation date and the final date is the date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$500

**TOTAL**

\$0



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PCW

Respondent DESI GROUP, INC. dba Fina Mart

Policy Revision 4 (April 2014)

Case ID No. 49683

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102361060

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Holly Kneisley

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 334.49(a)(2), 334.49(c)(2)(C), and 334.49(c)(4) and Tex. Health &amp; Safety Code § 26.3475(d)

## Violation Description

Failed to ensure that the corrosion protection system is operated and maintained in a manner that will provide continuous protection to all underground metal components of the underground storage tank ("UST") system. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly. Failed to test the cathodic protection system for performance and operability at a frequency of at least once every three years.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health and environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

25 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One monthly event is recommended based on documentation of the violation during the September 18, 2014 investigation to the October 13, 2014 compliance date.

## Good Faith Efforts to Comply

25.0%

Reduction \$937

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	x
N/A	(mark with x)

Notes

The Respondent came into compliance on October 13, 2014, prior to the NOE dated November 14, 2014.

Violation Subtotal \$2,813

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$707

Violation Final Penalty Total \$4,328

This violation Final Assessed Penalty (adjusted for limits) \$4,328

# Economic Benefit Worksheet

**Respondent** DESI GROUP, INC. dba Fina Mart  
**Case ID No.** 49683  
**Reg. Ent. Reference No.** RN102361060  
**Media** Petroleum Storage Tank  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

## Delayed Costs

Equipment	\$1,500	18-Sep-2014	10-Oct-2014	0.06	\$0	\$6	\$6
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair and test the corrosion protection system. The date required is the investigation date and the final date is the date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	22-Nov-2011	6-Oct-2014	3.79	\$95	\$500	\$595
Other (as needed)	\$100	20-Jul-2014	13-Oct-2014	1.15	\$6	\$100	\$106

Notes for AVOIDED costs

Estimated avoided costs for conducting triennial testing of the cathodic protection system (\$500) and for conducting bimonthly inspections of the rectifier and other components of the cathodic protection system (\$100). The dates required are the test due date and 60 days prior to the investigation date, respectively, and the final dates are the dates of compliance.

Approx. Cost of Compliance

\$2,100

TOTAL

\$707

Screening Date 18-Nov-2014

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PCW

Respondent DESI GROUP, INC. dba Fina Mart

Policy Revision 4 (April 2014)

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PCW Revision March 26, 2014

Reg. Ent. Reference No. RN102361060

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Holly Kneisley

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 334.48(c)

Violation Description Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health and environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

32

Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended based on documentation of the violation during the September 18, 2014 investigation to the October 20, 2014 compliance date.

## Good Faith Efforts to Comply

25.0%

Reduction \$937

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent came into compliance on October 20, 2014, prior to the NOE dated November 14, 2014.

Violation Subtotal \$2,813

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$4,328

This violation Final Assessed Penalty (adjusted for limits) \$4,328

# Economic Benefit Worksheet

**Respondent** DESI GROUP, INC. dba Fina Mart

**Case ID No.** 49683

**Reg. Ent. Reference No.** RN102361060

**Media** Petroleum Storage Tank

**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	18-Sep-2014	20-Oct-2014	0.09	\$2	n/a	\$2
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**

Estimated cost to conduct proper inventory control procedures. The date required is the investigation date and the final date is the date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$500

**TOTAL**

\$2

Screening Date 18-Nov-2014

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PCW

Respondent DESI GROUP, INC. dba Fina Mart

Policy Revision 4 (April 2014)

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PCW Revision March 26, 2014

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Media [Statute] Petroleum Storage Tank

Enf. Coordinator Holly Kneisley

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Health &amp; Safety Code § 26.3475(c)(1)

Violation Description

Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring).

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment could be exposed to pollutants which would exceed levels that are protective of human health and environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

## Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

One quarterly event is recommended from the September 18, 2014 investigation date to the November 18, 2014 screening date.

## Good Faith Efforts to Comply

10.0%

Reduction \$375

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		x
N/A		(mark with x)

Notes

The Respondent came into compliance on November 29, 2014, after the NOE dated November 14, 2014.

Violation Subtotal \$3,375

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$15

Violation Final Penalty Total \$4,917

This violation Final Assessed Penalty (adjusted for limits) \$4,917

# Economic Benefit Worksheet

**Respondent** DESI GROUP, INC. dba Fina Mart

**Case ID No.** 49683

**Reg. Ent. Reference No.** RN102361060

**Media** Petroleum Storage Tank

**Violation No.** 4

Percent Interest	Years of Depreciation
5.0	15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**

**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1,500	18-Sep-2014	29-Nov-2014	0.20	\$15	n/a	\$15

**Notes for DELAYED costs**

Estimated cost to provide release detection for the USTs at the Facility. The date required is the investigation date and the final date is the date of compliance.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$1,500

**TOTAL**

\$15

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## Compliance History Report

**PUBLISHED** Compliance History Report for CN601482318, RN102361060, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

**Customer, Respondent, or Owner/Operator:** CN601482318, DESI GROUP, INC.

**Classification:** UNSATISFACTORY **Rating:** 70.31

**Regulated Entity:** RN102361060, Fina Mart

**Classification:** UNSATISFACTORY **Rating:** 70.31

**Complexity Points:** 7

**Repeat Violator:** NO

**CH Group:** 01 - Gas Stations with convenience Stores and other Gas Stations

**Location:** 1612 E MAIN ST GRAND PRAIRIE, TX 75050-6032, DALLAS COUNTY

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):** PETROLEUM STORAGE TANK REGISTRATION REGISTRATION 6211

**Compliance History Period:** September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

**Date Compliance History Report Prepared:** November 18, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** November 18, 2009 to November 18, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Holly Kneisley

**Phone:** (817) 588-5856

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

1 Effective Date: 01/08/2012 ADMINORDER 2011-0005-PST-E (Findings Order-Default)

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.246(1)

30 TAC Chapter 115, SubChapter C 115.246(3)

5C THSC Chapter 382 382.085(b)

Description: Failure to maintain Stage II records at the Station.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(3)

5C THSC Chapter 382 382.085(b)

Description: Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system.

Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter C 115.242(9)

5C THSC Chapter 382 382.085(b)

Description: Failure to post operating instructions conspicuously on the front of each gasoline dispensing pump equipped with a Stage II vapor recovery system.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: Failure to notify the agency of any change or additional information regarding the USTs within 30 days of the occurrence of the change or addition.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.42(i)

Description: Failure to inspect all sumps, manways, overspill containers or catchment basins associated with a UST system at least once every 60 days to assure that their sides, bottoms, and any penetration points are maintained liquid-tight and free of liquid and debris.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.54(b)(2)

Description: Failure to maintain all piping, pumps, manways, tank access points, and ancillary equipment in a capped, plugged, locked and/or otherwise secured manner to prevent access, tampering, or vandalism by unauthorized persons.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.3475(a)

30 TAC Chapter 334, SubChapter C 334.48(e)

Description: Failure to ensure that all release detection equipment installed as part of a UST system is maintained in good operating condition.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.52(a)(2)

Description: Failure to ensure that a licensed UST on-site supervisor was present at the Station during construction activities on the UST system.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.52(a)(4)

30 TAC Chapter 334, SubChapter C 334.52(d)(2)

Description: Failure to obtain detailed written records of the repairs made to the UST system, and failed to maintain adequate records to demonstrate compliance with UST repair requirements.

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter A 334.6(b)(2)

30 TAC Chapter 334, SubChapter A 334.6(b)(2)(C)

Description: Failure to submit a written notification to the TCEQ at least 30 days prior to initiating a major UST construction activity, and failure to notify the Dallas/Fort Worth regional office between 24 and 72 hours prior to the scheduled time of initiation of a major UST construction activity.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1 August 05, 2011 (922183)

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
DESI GROUP, INC. DBA FINA  
MART  
RN102361060**

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**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2014-1734-PST-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding DESI GROUP, INC. dba Fina Mart ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a convenience store with retail sales of gasoline at 1612 East Main Street in Grand Prairie, Dallas County, Texas (the "Facility").
2. The Respondent's four underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about November 19, 2014.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Fifteen Thousand Fifteen Dollars (\$15,015) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Fifty-Seven Dollars (\$357) of the administrative penalty and Three Thousand Three Dollars (\$3,003) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Eleven Thousand Six Hundred Fifty-Five Dollars (\$11,655) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Thirty-Three Dollars (\$333) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. Began maintaining Stage II records at the Station on September 23, 2014;
  - b. Repaired and tested the corrosion protection system on October 10, 2014;
  - c. Began conducting bimonthly inspections of the rectifier and other components of the cathodic protection system on October 13, 2014;
  - d. Conducted triennial testing of the cathodic protection system with passing results on October 6, 2014;
  - e. Began conducting proper inventory control procedures on October 20, 2014; and
  - f. Implemented a release detection method for all USTs at the Facility on November 29, 2014.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement

proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to maintain Stage II records at the Station and make them immediately available for review upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(b)(2) and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on September 18, 2014.
2. Failed to ensure that the corrosion protection system is operated and maintained in a manner that will provide continuous protection to all underground metal components of the UST system, in violation of 30 TEX. ADMIN. CODE § 334.49(a)(2) and TEX. HEALTH & SAFETY CODE § 26.3475(d), as documented during an investigation conducted on September 18, 2014.
3. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure the rectifier and other system components are operating properly, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and TEX. HEALTH & SAFETY CODE § 26.3475(d), as documented during an investigation conducted on September 18, 2014.
4. Failed to test the cathodic protection system for performance and operability at a frequency of at least once every three years, in violation of 30 TEX. ADMIN. CODE § 334.49(c)(4) and TEX. HEALTH & SAFETY CODE § 26.3475(d), as documented during an investigation conducted on September 18, 2014.
5. Failed to conduct effective manual or automatic inventory control procedures for all USTs involved in the retail sale of petroleum substances used as motor fuel, in violation of 30 TEX. ADMIN. CODE § 334.48(c), as documented during an investigation conducted on September 18, 2014.
6. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 TEX. ADMIN. CODE § 334.50(b)(1)(A) and TEX. HEALTH & SAFETY CODE § 26.3475(c)(1), as documented during an investigation conducted on September 18, 2014.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: DESI GROUP, INC. dba Fina Mart, Docket No. 2014-1734-PST-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Ramona Monette  
For the Executive Director

6/11/15  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

[Signature]  
Signature

02/12/15  
Date

SHIRAZ JIVANI  
Name (Printed or typed)  
Authorized Representative of  
DESI GROUP, INC. dba Fina Mart

AUTHORIZED AGENT  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.